

THE INFAMY UNVEILED.

The Edmunds-Tucker Monstrosity
in the Senate.

ELOQUENT AND POWERFUL
ADDRESS OF SENATOR CALL.

The following is the speech delivered in the Senate, Feb. 18th, 1887, by Senator Call, in opposition to the Edmunds-Tucker bill:

MR. CALL. I can not let the report be adopted without expressing my disapproval, and the reasons for that disapproval.

This bill, in my opinion, is an anomaly on the statute book of this country. It is the second step towards the establishment of religious persecution and intolerance. It is but a thin disguise for the acute lawyers who have prepared this bill to assert that it is no violation of the Constitution of the United States or of the principles of civil liberty or religious tolerance upon which this Government is founded.

Mr. President, every law has a policy, has a spirit. It is not to be determined by the letter of the law as it is sought to be justified here, and that is the very first thing a student of the law learns; and it is strange that in the Senate of the United States the very original and first principles of the profession in the interpretation of law which have been handed down for hundreds of years should be boldly violated and the Senate should declare to the professional opinion of the world that the cardinal principles of the profession have no force or effect. Why, sir, the great commentator upon law, when he teaches the student of the laws of England the manner of interpretation, cites the instance of the law in Venice, which said that he who lets blood in the streets of Venice shall be punished with death, and the example of the man who, falling in the streets with sudden illness, had his blood let by a surgeon, violating the letter of the law; but the commentator declares that the law was not violated, because its spirit must determine its interpretation. It was not violated, because the spirit and the purpose of the law was to prevent the unlawful shedding of blood.

The acute sophists who have written this bill do no credit to the intelligence of the age or the faculty of reason when they declare in this bill that it is not violative of the Constitution, that it is not a law "respecting an establishment of religion," that it is not an intolerant proscription of religion, that it is not an unjust denial and discrimination between different citizens in their political rights, because the language of the bill carefully avoids the open statement of any or all these things.

If the effect of a law—if its object and effect—accomplishes these results, then it is equally liable to the inhibition of the organic law, and of an honest and wise public policy, as if it reached these results by the use of plain and direct language.

Now take this act presented to the Senate, and I venture to assert that before any tribunal, impartial and rational, it cannot be justified in any single provision. What shall we say of a law that undertakes to punish acts which a particular religion or sect of men worshipping God are prone to commit, violations of the law which may, as this bill assumes, be the result of their religious belief, and that imposes penalties not demanded by the universal good of the people, but because they are committed by that particular sect of men, and imposes penalties in excess of those that are imposed for the rest of the community for the purpose of affecting that form of religious belief, with the effect by accumulated penalties of forcing that people to abandon that form of religious belief. Suppose you select some one act which your law makes a crime, which is prevalent among that people, but not peculiar to them, but which with them is a religious belief, and you impose on that act committed by them extraordinary penalties. You make the methods of trial partial, oppressive, and cruel. You make the processes of summons and arrest revoltingly harsh and arbitrary. You confiscate their church property. You interfere between parents and their children in their education, and yet you ask honorable men to believe that you think this is not legislating against a particular form of religion.

Is that lawful? Can you extinguish by such legislation as that a form of religious belief, and yet put up the alleged plea that the letter of the law is complied with, that the Constitution is not violated? We punish all men alike, but we accumulate on that particular sect and the offenses they choose to commit penalty after penalty for the purpose of affecting that form of religious belief. Why, Mr. President, the subterfuge is unworthy of reasonable men, and can have no place in logic or in reason. "The letter of the law killeth, but the spirit maketh alive," said a great lawyer and an inspired man many centuries since, and from that day to this the intelligence of every age has sanctioned it—that to carry out the spirit and purpose of the law is to kill it, and to carry into effect its letter is to keep it alive. That when the letter of the law defeats its spirit and purpose you sustain the law by defeating its spirit and purpose and adhering to the letter. Who believes this,

Mr. President? No intelligent person. Yet the Senate Committee on the Judiciary so declare, and this bill so declares.

Take this bill, which is the re-establishment of the inquisition of old, which is religious persecution, which is a law respecting their establishment of religion, because these men have a form of belief and a practice which we disapprove. It is as much the establishment of a particular religion by law as if it declared it in particular terms. In its first provision the bill provides that

The lawful husband or wife of the person accused shall be a competent witness, and may be called, but shall not be compelled to testify in such proceeding, examination, or prosecution without the consent of the husband or wife, as the case may be; and such witness shall not be permitted to testify as to any statement or communication made by either husband or wife to each other, during the existence of the marriage relation, deemed confidential at common law.

MR. CALL. The provision of the bill which I have read is entirely harmless and is properly guarded; there can be no objection to it; but take that, the most innocent one in the bill, what is the object of this provision in the bill, it being an act to amend section 5332 of the Revised Statutes in reference to bigamy? The object of the provision is as much as if it were in direct terms directed against the Mormon Church, the Mormon religion, not the practice of polygamy, not unlawful intercourse between the sexes everywhere where this country has jurisdiction, but the spirit, the purpose, the effect of this legislation is intended to destroy the Mormon form of religious belief. Who can deny it? Can we, by a form of words, suppress the truth? Can we enact the grave face here that we are by a particular form of words seeking to do one thing and not another when the real object we have in view and the necessary effect of an enactment is evidently to effect the Mormon Church, the Mormon people, the Mormon religion? Can we avoid the truth that this will be a "law respecting an establishment of religion," when its object and effect is to "affect this establishment of religion" by declaring that it is a law relating to bigamy or polygamy, and that it is not "respecting a religious establishment," but is a law to relate to and affect a particular thing unless it so declares in terms.

We find another provision in the second section that any person may be attached, taken into possession, arrested and deprived of his liberty upon the suggestion under oath of anybody that he believes that such person will not obey the process of the court. Who will undertake to say that this is a position justified by the course of legal experience in this country by the practice of the courts? Admit, if you please, which I do not, that it is not a violation of the right to personal liberty guaranteed in the Constitution, the right to be free except under due and proper process of law, admit for argument's sake that it is process of law, what is the purpose, the effect, the spirit of this legislation, but to affect the Mormon people, the Mormon religion, and to say that they can not be trusted to obey the law; that they, differing from other sects and other people, must be punished in a particular way? If we should disguise the fact and enact a falsehood known to every one here to be false, is it any the less a falsehood because you disguise and suppress it by the form of language which you use?

This provision is intended to suppress the Mormon religion, the Mormon people. Will you tell the people of this country that you will dare by any form of words to make a law the effect of which shall be that the Methodist, or the Baptist, or Presbyterian, or Episcopal, or Catholic people of this country shall be subject to arrest and imprisonment without hearing or trial on the affidavit of any person that they believe they will not obey the process of the court, because they are Methodists, or Baptists, or Catholics; that they are not to be trusted because of their faith, their form of religion? But yet that is what this section of the law declares as plainly as if it did so in direct terms. That is the effect and purpose of this law, although the truth is sought to be evaded and suppressed by the language used. This and all other sections of the bill are framed on the theory that language, words, are only intended to deceive, and the faculty of reason is only right when it avoids the truth.

Again, when we come to the third section, we find:

That whosoever commits adultery shall be punished by imprisonment in the penitentiary not exceeding three years; and when the act is committed between a married woman and a man who is unmarried, both parties to such act shall be deemed guilty of adultery; and when such act is committed between a married man and a woman who is unmarried, the man shall be deemed guilty of adultery.

MR. PRESIDENT, why this unusual punishment? Why these specifications? Every one knows. Why disguise the fact? We have had petitions, and arguments, and discussions here time and again that this form of religious belief, Mormonism, is unfriendly to the Republic; that it is treason, and that it should be suppressed, and this law is to be passed in pursuance of a public clamor of that character. Again:

Sec. 5. That if an unmarried man or woman commit fornication, each of them shall be punished by imprisonment not exceeding six months, or by fine not exceeding \$100.

Why, this discrimination? Shall it be said that it is for respect to the

marriage relation that this discrimination between the married and unmarried person and this smaller punishment is affixed, that it does not relate to Mormon practices and to polygamy? The bill is a bill to amend an act to suppress polygamy, and what polygamy? Not polygamy everywhere, adulterous relations everywhere, but in the Territory of Utah, among the Mormon people, where that form of polygamy exists which they profess to believe, and which they practice to some extent; that form of religious belief that maintains that the patriarchs were religious, that the old testament religion was a religion, that Daniel and Solomon and many others, notwithstanding their polygamy, were religious men, and that the practice of it did not place them beyond the pale of human sympathy and of the divine forbearance.

Let us go further, and we find in the eighth section that it applies to the Territory of Utah, and provides:

That the marshal of said territory of Utah, and his deputies, shall possess and may exercise all the powers in executing the laws of the United States or of said territory, possessed and exercised by sheriffs, constables, and their deputies as peace officers; and each of them shall cause all offenders against the law, in his view, to enter into recognizance to keep the peace and to appear at the next term of the court having jurisdiction of the case, and to commit to jail in case of failure to give such recognizance. They shall quell and suppress assaults and batteries, riots, routs, affrays, and insurrections.

Without process of law, without inquisition by any tribunal, without any kind of complaint, the marshal may seize and arrest any one, this section seeking to vitalize and protect him with an old and obsolete custom of law made for arbitrary governments and kingly power. These marshals have the power to arrest any man without cause, upon their own motion; to quell anything that they may see fit to interpret as a riot or tumult; to use any degree of violence; in short, to slay and murder an unoffending and submissive people at will.

I have seen printed and circulated among Senators a sworn statement of a brutal murder committed by these marshals and these deputies under such a provision as this, which lures them to violence upon these people. Wrong they may be, but unoffending, industrious people in many respects; and they have made a distinguished success in that most important matter of the comfortable subsistence of the poor people whom they have carried into their once desert country, which they have made by their labor to blossom like a rose.

I am not the advocate of polygamy or improper relations between the sexes, but I am not afraid to condemn the spirit of persecution which will gloss over the faults of our own civilization, and from that spirit of fanatical cruelty which has shed so much blood and inflicted so many tortures make victims of better men and better women than many of those whom our harsh and cruel laws have forced into worse practices.

I condemn their polygamy, but I believe that the religion of Christ and not that cruel persecution which subverts it and applies tyranny and the terrors of the law to the suppression of religious belief is the proper remedy for it. I take no part in this revival of the fires of religious persecution. Suppose the Mormons have been themselves bigoted, vindictive, cruel, and bloodthirsty, as is charged by their enemies, of which I know nothing, is that a reason why we should imitate them, and go back from the religious tolerance and freedom of modern times to the superstitions and the intolerance which sought to impress forms of religious opinion, not by the persuasion of argument and reason but by the arm of the law, by the sword, the halter, the dungeon, and the torture? But to the disgrace of our times, this is the character of the bill which the Senate will pass.

Then, again, we have a provision here in relation to the ceremony of marriage, all directed to the practices of that peculiar sect, to that form of religious belief; and then, not stopping there, the bill proceeds to visit its terrors upon the unfortunate children who are brought into the world by divine providence without any of the faults of the mothers or their fathers imputed to them. The poor innocent child the Senator from Vermont in his Christian charity finds a place to persecute and oppress in this bill.

Sir, in my judgment it is a disgrace to civilization as it is a reproach to the religion of Christ, a barbarism condemned by every principle of humanity and justice, a cruelty without excuse or palliation. A man and a woman join themselves together in a union approved by their church and their religion, by the permission and under the divine economies which the King of Kings has ordained, and which the Judiciary Committees of the Senate and the House, and all others whose fanatical judgment arraigns the divine order, cannot unmake. Children are born to them. They have their right and title to a part in this world suited to their faculties and capacities, and neither the devisers of this bill nor all mankind can deprive them of that right; but this law seeks to visit on their innocent heads disgrace and beggary, want and starvation, because their parents innocently, as they thought, and with the sanction of the divine providence brought them into the world. Mr. President, this is a shocking and cruel barbarity, an insult to the religion of Christ, and a disgrace to the civilization of the age.

Sec. 11. That the laws enacted by the Legislative Assembly of the Territory of Utah which provide for or recognize the capacity of illegitimate children to inherit or to be entitled to any distributive share in the estate of the father of any such illegitimate child are hereby disapproved and annulled; and no illegitimate child shall hereafter be entitled to inherit from his or her father or to receive any distributive share in the estate of his or her father: *Provided*, That this section shall not apply to any illegitimate child born within twelve months after the passage of this act, nor to any child made legitimate by the seventh section of the act entitled "An act to amend section 5332 of the revised Statutes of the United States, in reference to bigamy, and for other purposes," approved March 22, 1882.

What Christianity and what civilization can justify this harsh and cruel provision? What has the poor child done that the Senator from Vermont should deprive it of subsistence, of the means of going through the world with credit to himself or herself? Why should it be persecuted with the terrors of this law because the father and mother believed improperly; believed, if you please, barbarously, that a certain form of relation between the sexes was legitimate and of divine permission; believed a doctrine, if you please, pernicious to society, that by proper means, by free discussion, by the moral suasion of the religion of Christ, should be eradicated and exterminated? What if they did, shall the poor child be the victim?

MR. PRESIDENT, the Spanish inquisition, which was not the fault of the church but of the ambitious men who sought to use its spiritual powers for their political ends, was not more cruel when it burned those who did not accept its doctrines and its theories as of divine origin than is this provision of the bill, taking the poor illegitimate children whom Almighty God has permitted to come into this world, in fault, if you please, of their ancestors, but without fault of themselves, and branding them and depriving them of all subsistence and help and comfort.

What should the father of an illegitimate child do in the theory of this bill? Abandon his offspring and commit a thousand times fouler crime by abandoning his parental feelings and leaving the offspring that he has begotten to starvation and misery; that is the wicked and cruel command of this bill; that is the morality it enjoins. Let the child born of innocent purposes and under a form of religious belief be an outcast from human sympathy because we deny the right of the Divine Ruler of the Universe to establish an order of nature which allows children to enter the world otherwise than as we think proper, and notwithstanding the fault of their parents endows them with the faculties which command success.

The Divine Law-giver said, "Let little children come unto me," and He blessed them and His followers have established charities for them, and even the "foundlings" have their guardians and their friends in the gentle hearts of Christian men and women. But the insane fanaticism of this bill seeks to place a curse and a stigma on them and deprive them of their natural protectors and of natural love and affection.

Sir, the bill is barbarous and inhuman in every light. Be as strong an anti-polygamist as you please, you can not be a follower of the divine religion of Christ and maintain a doctrine, a principle, a provision of law that has this effect. It is an insult to Christ's precepts and religion, and a deadly assault on all the beautiful charities and humanities that have grown up under it. As false to human nature and the conditions of life as it is to the divine economy that governs the world. I visited some years since the foundation of a beautiful charity of a Roman Catholic Church in Montreal, the Sisterhood of the Grey Nuns, I believe is the name, where all the foundlings of Canada are received, educated, and cared for and started in life. What a contrast with this law!

Shall we be told that the laws of society have thus harshly discriminated against illegitimate children for the public good? It was a barbarous provision that the victim of society and of your laws and of wrongdoing who in order to support human life became the victim of the fault of others—but that the poor child should be the victim who in the divine economies of life has been permitted to come into the world, and who may be the equal of the Senator from Vermont or any one else, because Almighty God does not give a patent to those people or any particular people for a decorous and careful observance of life to own and possess the best things of the world.

Such a poor child has a title and a right to make a man of himself, but this bill denies it. This bill says the father must be guilty of a worse crime than the indiscretion and the wrong, and for what? To destroy the Mormon religion. He must abandon his offspring. He must abandon the woman who has trusted his manhood and his fidelity to his promises. He must purchase immunity from punishment and political right and public office by leaving them to sorrow, starvation and misery.

MR. PRESIDENT, no language can express the wickedness and moral enormity of this bill. It requires a man to become a fiend in human form in order to be a citizen of the United States.

MR. PRESIDENT, I have read of a wiser lawmaker than the Senate Committee on the Judiciary; of a divine lawgiver who, when a person taken in the commission of this offense was brought before him for a sentence, wrote upon the ground, "Let him who is without sin amongst you cast the first stone;"

and the listening multitude, convicted in their consciences, departed without casting a stone at the poor creature; a Divine lawmaker whose sentence was: "Hath no man condemned thee? Then do I not condemn thee. Go and sin no more."

I understand that to be the law of Christ and the Christian religion, and not this harsh method of punishment. For one I accept it as the efficacious method, discussion, free opinion, the ministers of Christ, the spiritual power of the church, and not the terrors of an arbitrary and cruel law disregarding his divine maxim. These are the great agents for the extermination of Mormonism or any other form of improper religious belief, not "laws respecting an establishment of religion," however artful and cunning their phraseology to conceal their real purpose and effect.

Then we come to what? To the escheat of the property of this corporation under the plea that it is in violation of a statute of the United States. Was it intended to prevent the Catholic Church, the Protestant Church, the Episcopal Church, the great society of Methodists and Baptists—with their evangelization, with their active and patriotic work—was it intended to limit and prevent them from accumulating the means to accomplish their great work? We know, for the bill declares it is to extirpate that form of religious belief, which belongs to the Mormons, that religious belief which prompts, as we think, to pernicious practices. We undertake to declare that the Mormon religion is a criminal religion; that it teaches practices that are pernicious to society; that it believes doctrines contrary to the theory of the Christian religion; that its acceptance of the habits and customs of the old patriarchal days is a sin of the worst character against society. Admit, as I do, all these propositions, it none the less establishes the force of the observation that this is an attack upon the Mormon religion because of these alleged practices.

The Constitution of the United States provides that property in any person, natural or artificial, it makes no difference, shall not be taken away from him without just compensation. It is intended to provide that it shall not be taken except for public purposes for public necessities. What is the escheat of this corporation? Defend it as you may by the technical letter of the law, that it is a corporation in violation of an antecedent act of Congress, that its property is accumulated in violation of the law—admit that to be true, and that Congress may by virtue of its sovereign power forfeit it, is it the custom of the United States to forfeit the property of persons or of corporations when they are not needed for the public use?

We know it is not. Is it within the letter of the law that you may even confiscate the property of this corporation? I gravely doubt whether it is in the power of Congress to affix that penalty upon any corporation for any violation of law. It may dissolve the corporation, it may terminate its natural life if it fails to answer any purpose of public utility, but it can not appropriate the property of individuals who compose the corporation without judicial process, of appropriation and condemnation for the public use, without any necessity for use for the public good, and without compensation to the owners of it. It would seem as if there could be no doubt upon that subject.

Then we come to the provision that no person shall exercise political privileges without taking an oath. Let us see what that oath is. We are told that it is a test oath, and that it is a test oath just as the oath to support the Constitution of the United States is a test oath; just as the oath to forswear allegiance to a foreign government is a test oath. The proposition can not be maintained. There is no ground of reason upon which you can place the two propositions. The one is contradictory to the other. Now, let us see what that oath is:

Sec. 24. That every male person twenty-one years of age resident in the Territory of Utah shall, as a condition precedent to his right to register or vote at any election in said Territory, take and subscribe an oath or affirmation, before the registration officer of his voting precinct, that he is over twenty-one years of age, and has resided in the Territory of Utah for six months then last passed and in the precinct for one month immediately preceding the date thereof, and that he is a native born (or naturalized, as the case may be), citizen of the United States, and further state in such oath or affirmation his full name, with his age, place of business, "his status, whether single or married, and if married, the name of his lawful wife."

Why is that provided? Was there ever such a qualification prescribed for voting before?

and that he will support the Constitution of the United States and will faithfully obey the laws thereof, and especially will obey the act of Congress approved March 22, 1882, entitled "An act to amend section 5332 of the Revised Statutes of the United States, in reference to bigamy, and for other purposes," and will also obey this act in respect of the crimes in said act defined and forbidden, and that he will not, directly or indirectly, aid or abet, counsel or advise, any other person to commit any of said crimes. Such registration officer is authorized to administer said oath or affirmation; and all such oaths or affirmations shall be by him delivered to the clerk of the probate court of the proper county, and shall be deemed public records therein.

There is no religious test in that oath except in this, that the oath is designed to affect the Mormon religion. This oath has the effect of affecting the Mormon religion; not the